THE DAILY JOURNAL

THURSDAY, APRIL 6, 1899. Washington Office-1503 Pennsylvania Avenue Telephone Calls. Business Office......238 | Editorial Rooms......86 TERMS OF SUBSCRIPTION.

DAILY BY MAIL Daily only, one month. Daily only, three months .. Daily only, one year Daily, including Sunday, one year...... 10.00 Sunday only, one year .. WHEN FURNISHED BY AGENTS. Daily, per week, by carrier Daily and Sunday, per week, by carrier 20 cts

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WEEKLY.

Persons sending the Journal through the mails in the United States should put on an eight-page paper a ONE-CENT postage stamp; on a twelve or sixteen-page paper a TWO-CENT postage stamp. Foreign postage is usually double these

Indianapolis, Ind.

All communications intended for publication in this paper must, in order to receive attention, be accompanied by the name and address of the

THE INDIANAPOLIS JOURNAL Can be found at the following places: NEW YORK-Astor House.

CHICAGO-Palmer House, P. O. News Co., 217 Dearborn street, Great Northern Hotel and Grand Pacific Hotel. CINCINNATI-J. R. Hawley & Co., 154 Vine LOUISVILLE-C. T. Deering, northwest corner of Third and Jefferson streets, and Louisville Book Co., Z6 Fourth avenue.

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The Filipino Junto in Hong-Kong seems and campaign liars.

The Cuban Assembly made a great mistake. If it had dissolved a few weeks sooner its members might have joined the pay roll.

The street-railway experts and contractors who hurried here on the invitation of a pricitizen have probably discovered by this time that he is not a co-ordinate branch of the government.

Nothing about Chicago would lead to the an overwhelming factor in the city's politics. but when the Prohibition candidate for mayor received 387 votes in a total of 300,690 all doubt is removed.

as mayor of Chicago came pretty near being a carnival of corruption and vice. Having been re-elected, largely by the votes of decent people, he can afford to give the city a decent administration.

It is to be hoped the New York paper undertaken to start a "boom exchanging the Philippin islands for the British West Indies will not close the deal without first consulting the United States and Great Britain.

The sturdy Republican city of St. Louis stands firm in place in every contest against unusual odds, since the police is appointed and controlled by a Democratic commission of three, appointed by the Governor, and the police is used to fight the Republicans.

The fact that hundreds of those who were condition of each man is

The court could have made just as strong a decision and a much shorter opinion in the street-railroad injunction case if it had taken the broad ground that, as a municipal city has a right to do whatever the Legislature empowers it to do.

The pottery makers' trust has come to grief in its infancy. It was capitalized for Few men will buy, even for speculative purposes, stock that represents no actual value.

President McKinley's action in sending a special commission to the Philippines is likely to be fully vindicated. The proclamation issued by the commission has made formation regarding the country, the peo ple and the political situation, and when returns it will be able to give valuable advice regarding a form of government for the

man to lay down the rules.

It is related that when a hard-money business man of North Carolina was asked by a silverite member of Congress on the coinage committee "Is there a sufficient quantity of gold in the world to do the world's business?" he promptly replied: "In my humble ty of gold in the world for the exchanges of the world." There is a nut for the silverites

the exposure of a person in Fort Worth, Tex., claiming to be Dr. Charles V. Harris, U. S. A., just from Manila, with a story that our soldiers are so despondent that they Filipines. This story would have done the is, had not the Medical Bureau of

The George S. Boutwell, of Massachusetts, who is exploiting himself as a leader of the anti-expansionists is the same Boutwell that made himself a national laughing stock thirty years ago in the Andrew Johnson impeachment case. In one of his attempted flights of oratory he suggested that the unpopular President be got rid of by shooting him from an air gun into an imaginary hole in the sky from which he could never re turn. He seems almost ready to punish President McKinley in the same way.

The injunction proceedings which the Smith-White element have brought illus-

is not made with the present company. which can purchase all the franchises and claims of the Citizens' company. These persons asked for an injunction two weeks ago. Yesterday the three judges of the Superior Court in this county refused to make the injunction perpetual. Now they propose to appeal to the Supreme Court. The motion for an appeal will be heard on Friday. Judging from the past in such matters a week or two will be taken to decide about the appeal. If it should be granted and the question gets into that tribunal a couple of months may pass before a decision shall be rendered. And this is a question simply of the right of the city to act under a law. If such delay results from simple proceedings for an injunction, how many months and years will pass before the settlement of issues growing out of claims regarding franchises, when lawyers make delay an end? The term "speedy justice," which is used in constitutions, is lost sight of in most

CERTAINTY BETTER THAN UNCER-TAINTY.

The court having dissolved the temporary injunction, the city is free to go ahead and perfect a contract with the new street-railway company with which it has been negotiating. It is not a matter of politics, but one of business. It is not a question of what the people of Indianapolis may get when a series of "ifs" and legal uncertainties shall have been settled in the sweet but far distant by and by, but what is the best thing that can be obtained just now in the way of cheaper and better street-railway facili-

Considering the important subject upon that basis, the Journal believes that the best thing which can be done for all the people is for the city government to grant a franto be composed of yellow correspondents | chise to the Indianapolis company upon the | pected to shoulder a gun instead of a spade. best terms that can be obtained. The Jour- The investigation now going on at New Orsettle at once the contention and uncertainty | be a thorough one, and the business of outwhich have involved street-railway trans- fitting revolutions for the Central American portation for years. Outside of such a cer- States should be broken up. tainty all is uncertainty. All that the lawyers who have made the majority report to the Commercial Club can say is that they believe the law questions involving the franposed of without unreasonable delay. This might be mildly assuring did not the mass of people know from long experience that litname for protracted delay. With two years before action to eject the Citizens' company could be begun, can the public expect, if the decision should be favorable, that it could be reached before three or four years after the bringing of a suit by the Carter H. Harrison's first administration | city? There would be at least five or six years of deteriorating service and 5-cent fares. With the present uncertainty the service is not so good now as three years ago. The rolling stock is wearing out, the power is less reliable, and no modern, firstclass cars are being put upon the tracks. Do the people prefer five or six years of this increasing deterioration and 5-cent fare prefer a 4-cent fare, better service and a universal transfer as soon as the new company can get control of the property? That is the question, and to such a question there can be but one answer, which is that a certainty of better things is better than a

The terms of the contract between the expansion of the transfer. Further, when corporation created by the Legislature, the | will be seen that there is a penalty for failure to render the service which is especially agreed upon

There is reason to believe that the city the City Council when the contract made by the Board of Public Works shall be placed before it, for the reason that first-class service, with a 4-cent fare at once, is preferable to the possibility of a 3-cent fare five or six

THE REVOLUTION BUSINESS.

By direction of the government the United

States district attorney at New Orleans is before the United States grand jury, and it is expected that several indictments will be returned against persons who have been furnishing revolutions to order. The inves-So Colonel Bryan is going to Chicago to | tigation seems to be timely, for the United States has recently been put to considermake a speech, in which, it is predicted, he able expense in ordering vessels to different Mayor Harrison what he must | Central American states and sending cable messages on account of revolutions. During that just now, when Colonel | the month of March trouble of this kind Bryan's special friend Altgeld, backed by occurred with no less than three Central his committee and his newspaper organ, has | American republics-Nicaragua, Honduras come to grief, Mayor Harrison would be the | and Guatemala-giving rise to diplomatic differences that might have resulted seriously. In each case Americans were more or less involved in the attempted revolution. In the case of Nicaragua Americans residing in the country took part, and some volunteers were recruited in the United States and shipped from New Orleans to assist the revolutionists. While this attempted revolution was in progress dispatches from the United States government to our consul at Bluefields were stopped and two war ships were sent to Bluefields to demand an apology. In the Honduras affair, The last calamity of the Aguinaldo press is | in which also Americans participated and which is said to have been engineered from New Orleans, an American citizen, a Mr. Pears, of Pittsburg, was killed by a soldier. He was not a combatant and was really this outrage the United States government anti-expansionists a world of good, improba- has demanded an explanation and \$100,000 damages from Honduras, and has sent a the War Department remarked that no man | war ship to enforce the demand. This is a of the name of Charles V. Harris has been | large sum for Honduras to pay, and it may connected with the medical service in Manila | not be easily collected, but as the case involves protection to American citizens the demand will doubtless be enforced. In Guatemala a number of Americans who claimed | President for oppressing the free people of they still are. These men may not have been Their cases are now under consideration by the United States government and may lead

curred within a few weeks shows the neces- | placed in command of the new western de-

ment has reason to believe that these continually recurring revolutions are largely fomented in and engineered from New Orleans by exiled Central Americans and disreputable Americans who undertake the job for pay. A letter from New Orleans says:

The Central American revolution business in New Orleans is as well organized and as systematic as any other industry. Reves. Soto, Vasquez or any of the exiled presidents who wishes to return to office gives notice that he is willing to plank up \$100,000 or \$200,000 or whatever amount he may think the presidency is worth. He comes down ere, meets one of the organizers, generally a daredevil American, who agrees to steer the thing through for him. Generally two or three ex-presidents pool their issues, as Reyes in Nicaragua and Vasquez in Honduras, as that prevents one of the governments from going to the assistance of the other. There is always a large stock of arms in New Orleans reserved for Central Amercan revolutions-and a very sorry stock it is, too, of much the same class as the arms sold to China by philanthropic English or German merchants. These arms have played a part in a dozen revolutions, for as soon as a president gets into office through them he has no longer any use for them and sells them as junk to New Orleans dealers, who reserve them for the next affair. Thus the arms which placed Policarpo Bonilla in the presidential chair of Honduras were sold to New Orleans dealers. The latter disposed of them to Soto, who used them against Bonilla, but failed in his revolution, the arms being stopped by the United States customhouse authorities at New Orleans. as they left this port concealed in bales of hay. They were finally bought by President Sceria some weeks ago when he found that Vasquez would invade the country from Honduras. Now that the danger is over they will probably come back to the junk shops until the next revolution is organized.

All this is done in open violation of our neutrality laws and at the imminent risk of causing serious trouble and perhaps war. In addition to the mercenary schemers in New Orleans who work up revolutions to order and supply filibusters with arms it is said that so-called labor agencies in some Western cities send men to Central America ostensibly to work on railroads or plantations, but really to help along a revolution. When the men get there they find they are exnal favors this proposition because it will | leans by order of the government should

> THE CHICAGO ELECTION. Beyond the election of Mayor Harrison by Republican votes, the result of the election in Chicago has interesting features. First, shows what the proscriptive policy which the Bryan-Jones-Altgeld leaders of the 16-tol party means for the party calling itself Democratic. Altgeld is a man of some popularity and ability. He was an independent candidate who, with other things, stood for the free coinage of silver and that narrow, insistent element which Altgeld best represents. He had the eleventh-hour indorsement of the official organ of Bryan and the central authority of the Jones Democratic national committee. Harrison was assailed because the platform upon which he was nominated ignored the silver question. Yet as the radical exponent of 16 to 1, Altgeld received but 45,400 votes. The result should show those ultra silver leaders thrusting men out of the Democratic party because they are not fanatical silver mer that the Altgeld policy will insure defeat. Another result of the election is that it ends Altgeld as a political factor in Illinois. Leaving behind him while in office a record of defalcation by subordinates who trusted him, the champion of lawlessness and one of the most fanatical of men who made the Chicago platform, Governor Altgeld seems to have come to his political end by his own

Mr. Carter, the Republican candidate for part of the Republicans of Illinois have no to be United States senator as the successor of Mr. Cullom. Governor Tanner seems to have had a wonderful facility for doing the worst thing most effectually. Indeed, his ad ministration in some respects has tended t cause the people to forget the vicious and administration of Altgeld as Govselves party managers that Tannerism and the scandals concerning the passage of th Allen law mean and merit defeat.

ministration in general has been only half | The second place belongs to the District of without returning any concession. But, best of all, he has beaten Bryanism and Altgeldism because those elements thrust them-

selves into the fight against him. President Ingalls, of the C., C., C. & St. L. Railway Company, delivered an expanassociation in Cincinnati. Mr. Ingalls believes that it would be folly to throw away what we have fought for and honestly won. If we should abandon the Philippines Germany or some other country would seize them. If we rule the Philippines the Conof them. Bishop Potter, it may be added, takes the opposite view in an article in the North American Review. That good man has been giving himself wretched half hours by imagining that the Philippines man, dealing with large affairs, and the excellent bishop who knows little of the world beyond his diocese and its small affairs, represent the character of the sentiment on the Philippine question. The mass of active American people agree with President Ingalls that we should hold the pos-

The Military Assembly of Cuba has displayed sense, even if belated, in dissolving army to the authorities. Some impatience has been exhibited because General Brooke is evident that patience has brought better results. If the Assembly had been dispersed those papers that have insisted upon regarding the Cubans as intelligent and patriotic people would have denounced the a free land. The dissolving of the Assembly the island. The Cuban army has been quently its removal will restore confidence.

The prospective consolidation of the seven military departments in Cuba into four has been indicated for some time past by the pacified state of the island and the large reduction in the number of troops. It is be-The fact that three such cases have oc- lieved in Cuba that General Lee will be hav be expected if a contract sity of putting a stop to them. The govern- partment, with headquarters at Havana.

Besides the poetic justice in this appointment it would be an excellent one from political point of view, as he is highly regarded by the people of Havana and has had a chance to gain a valuable insight int the workings of the Cuban character.

BUBBLES IN THE AIR.

Recherche.

"Out of the frying pan into the fire," quoted her friend. To which answered she: "Why not? A broil is more recherche than a fry and not near so conducive to apepsy."

Doubtful. Timmins-I've just got hold of a great line to begin a poem with: "Once an angel loved a star." Simmons-Say, is this poem for the Dramatic Mirror or the Ladies' Home Journal?

A Blessing.

First Actor-Well, the medical guy says I've got paresis coming on. Second Actor-That ain't so bad as looks. You know a fellow with that is generally happy; and, besides, you ought to make a good living writing vaudeville sketches.

A Dilemma. Hungry Higgins-Here is a ad in the paper that says "save your old rags." Weary Watkins-That sounds ail right, but I bet the feller that give that advice never had no barb wire fence in front of him an' a big dog behind 'im.

CAPT. ELLIOTT IN PORTO RICO. Result of a Journey of Inspection Over the Island.

San Juan News, March 28.

Capt. W. H. Elliott, director of posts; H M. Robinson, postal superintedent; W. L. interpreter, returned to San Juan Sunday morning from their second tour of inspection of the postoffices and as seekers of inraphy, agricultural interests, the character and condition of the peopl party left San Juan on Monday, day in Mayaguez; thence, that night, by steamer to Ponce, thence by rail to Yauco, army ambulance to Sabana Grande, San jos: thence on ponies to Mayaguez. Leaving Mayaguez on ponies, they visited Maricao, Las Morias, Lares, San Sebastian, Moca and Aguidilla: thence by coach they made the towns of Ayuada, Rincon, Anasco, Isabela, Quebradillas and Camuy; thence ponies to Hatillo and Arecibo, by rail Barceloneta, thence on ponies to Florida, Manati, Ciales, Morovis and Vega-Baja. whence they returned by rail to San Juan, sore and weary, but well pleased with the results of their journey, enthusiastic, in fact, over the magnificent scenery that had met their gaze at every turn of the moun-tain roads, the many evidences of thrift and enterprise as presented by the plantations through which they passed and the assurances of loyalty and contentment as shown in the attitude and bearing of the people of all classes, their uniform courtesy and efforts to contribute to the needs and com-

fort of their guests. They lived, literally, off the country, eating what was laid before them and sleepin alcaldias or improvised beds, in tumble-down hostelries or barracks, as night found them. They especially enjoyed stopping at country places and partaking of oranges and cocoanut milk, which were always freely furnished and evidently without ntent to charge for, compensation, in fact,

often being refused, and by people apparently very poor. Captain Elliott passed through the district from which disquieting reports have been sent out with much persistence recently. He saw no bands of banditti nor gangs of robbers lurking in caverns or clefts, and leans to the belief that if there are any, advantage was taken of the slowners of preparing his mounts to send runners out to notify and warn them to take to the woods, although the captain was armed with nothing more harmful than a spur and a cowhide whip. He owns a revolver, but it is in Indi-He takes no stock whatever in the inthe creature of excited imagination, or concocted by those whose interests might be best served through continued oppression of the poor. That there are such men on the island and that they look with alarm upon the laboring classes he has reason to be-

A trip of about three days to the towns along and south of the railroad west of San Juan, and a journey of about four days' duration to the towns on the northern and eastern coast around to Humacao will complete the captain's tour of the island and put him in possession of valuable information not possible to be gained by other means.

MANY SEEKING PENSIONS.

Few of the Applicants, However, Were Under Fire in Cuba.

ST. LOUIS, April 5 .- The Globe-Demorat's Washington correspondent says: The Pension Office is being almost overwhelmed with applications for pensions now being Spain. The demand is beyond all expecta-The regiment which has achieved ber of applications for pensions thus far is the Thirty-fourth Michigan. The number of pension applications so far received from to Columbia regiment, which has in 350 applications. Then follow the Thirty-third Michsachusetts. The number of pension applications from the Second Massachusetts, which is the fifth on the list, is 317. Seventeen officers of the staff of the District of Columbia regiment are among the appli-Of all the regiments mentioned the only

two which were under fire were the Second Massachusetts and the Thirty-fourth Mich-The Second Massachusetts had a number killed and wounded, and the Thirtyfourth Michigan had four men killed at Aguadores bridge and probably a dozen wounded. The principal cause upon which pensions are asked is malaria. The Pension Office officials say the rush or pensions by these who served in the Spanish war is very remarkable, in view of he fact that, up to 1882, there were a number of regiments which had served all through the civil war which did not have, all told, 100 applications. It is the belief at the Pension Office that the pension attorneys are largely responsible for the large number of pension applications which have

CONFIDENCE AND TRADE

Secretary Gage Predicts a Continuance of the Prosperity Wave.

NEW YORK, April 5 .- The Herald says: Secretary of the Treasury Gage, before his return to Washington, said: "Increased wages in New England is the natural result of the turn commercial and industrial affairs have taken in this country. The censessions "we have fought for and honestly | tral, Southern and Western States are feeiing the impulses which quickened trade in the East. The response will not be delayed. Greater confidence means better trade; better trade means increased wages. Prosperity for capital means prosperity for labor, just as surely as hard times for one means hard times for the other. Confidence, which had been shaken by the loud talk of a socialistic few, returned and was followed by a revival of trade. Debts were wiped out; a financial foundation for the future established. Now comes the day of reward for intelligent and loyal labor. This final stage of prosperity was somewhat delayed by the step aside we made as a Nation last year to wage a successful war against an offensive neighbor. Duty is often unpleasant and sometimes expensive, but it is never regretted. Now we have returned to pursuits affected every community and every trade will remain with us for many years, unless we perpetrate some great national blunder. "In watching the security market I have seen millions invested day after day where a little more than two years ago capital re-

fused to venture. Still, while I rejoiced at

that evidence of prosperity, it did not give

me the satisfaction I experienced when I

saw the price of labor advance. It is the

prosperity of the masses which means good

times. With every mill and every work-

shop open, agriculture at its best and new

fortunes being extracted from the mines

each day, idleness is now only a thing of

MESSRS. SMITH AND WHITE DENIED AN INJUNCTION BY COURT.

NOEL LAW IS SUSTAINED

City May Now Proceed with Its Street-Railroad Negotiations-The Court's Opinion.

The temporary restraining order granted to Charles F. Smith and John F. White Public Works was dissolved in the Superior Court yesterday. The plaintiffs sought by injunction to prevent the city from dispos- | that plaintiffs show an interest in the sub ing of a franchise to the Indianapolis Street- | ject matter in controversy peculiar to theming order. Yesterday an opinion in the case was read in Room 2, by Judge Leathers. In the opinion the court held that the objections urged against the street-car law passed by the last Legislature could not be sustained. The three Superior Court judges concurred in the opinion. The decision does away with the temporary re-

straining order and declines to grant the in-

junction asked for. The opinion was read during the morning and in the afternoon the three judges heard further argument from the attorneys on each side. This was for the purpose of getting the case in the proper shape to go to | railroad company shall exercise its franthe Supreme Court. The action of the court in denying the injunction is not a final disposition of the case. The plaintiffs were anxious to take the case up at once and yesterday afternoon asked the court of its own could have then prayed for an appeal. The court declined to take this action, holding formation concerning the island, its topog- | that it would be error to enter up a judgment at this time. The court suggested that the plaintiffs enter a motion to | must show a population exceeding 100,000. March 18, by steamer Arkadia, spent Tues- have the city file an answer to the original complaint. The plaintiffs did so and the atstood, of course, that a final decision will terday. These proceedings are merely formal. Pending a trial of the case the city is free to proceed with its negotiations with the Indianapolis Street-railway Com-

> The decision read yesterday morning first reviewed the grounds on which the plaintiffs based their action against the city. At the self met with the question as to whether the plaintiffs, by the allegations of their complaint, had shown themselves competent or qualified to maintain the action. If so the further question arose: "Is the act challenged as unconstitutional open to that objection?" The opinion then continued:

'We are of the opinion, however, that if the complaint clearly fails to show that plaintiffs have a legal standing to maintain the action, then it is the duty of the court to refrain from entering upon the consideration of the constitutionality of the act in question. No graver question, for the consideration of a court, can arise than the constitutionality of an act of the Legislature, involving as it does a review of the power of a co-ordinate branch of the government, and it is the duty of the court not to enter upon such consideration unless it

PARTIES HARASSING OTHERS "The case of Henderson, auditor, vs. the State ex rel. Stout, sheriff of Vigo county, 137 Ind., 552, was an action the purpose of which was to compel the appellant, as state the prospect of freedom and protection to of Vigo county, as compensation for the delivery of convicts at the southern state prison. In it the constitutionality of the of every county in the State, including | tion. Shelby county. The Supreme Court said: Whether the appellee can be heard to com- a street-railroad company contracting with plain that the General Assembly failed to fix a salary for the auditor, treasurer and otherwise, the property and franchises, in recorder of that county depends upon the preliminary question as to whether the pro- erating a street railroad in such city, or visions of the statute are so interlocked and so dependent upon each other that the act must stand or fall as a whole, for we will not permit him to litigate a matter in which he has no interest. A party cannot be permitted to harass others and take the time he has no interest, and, for this reason, if the provisions of the act under immediate that it can stand as to appellee, while might fail as to the auditors, treasurers and

recorders, we will not stop to inquire whether it is or is not valid as to the latter.' THE CONSTITUTIONAL POINT. "If the act sought to be overthrown in the that plaintiffs have no right to injunctive are invested with the judgment and orscreterestes of the city and its citizens, and the terms and conditions, within the limitations imposed by the law itself, which shall be contract, which it is alleged that the deford no ground for relief. When the determination of such matters is intrusted by law to the judgment and discretion of municipal officers, or boards, no rule is better established than that equity will not revise or control the exercise of their discretion, or interfere with their action in the absence of fraud, and while they continue to act within the scope of the powers conferred upon them.

"If, however, the act in discussion is unenstitutional, it follows that any contract based thereon would be a nullity, and thereunder, in the streets of said city, would be a public nuisance, and in a proper pro ceeding might be abated or enjoined. Such unauthorized occupation would constitute a nuisance per se. . . . "In such case the question arises who may

maintain the action? Booth, in his work just referred to, in speaking of such cases, says: 'The general rule is that an injunction will issue at the suit of a private individual who sustains a special injury, but where the nuisance is purely a public no injury being done or threatened to private citizens or their property, such acts can be restrained only by the public on information filed by a duly authorized public

RIGHT TO MAINTAIN AN ACTION. "The case of McCowan et al. vs. Whitesides, 31 Ind., 235, was an action by plaintiffs against Whitesides to enjoin him from obstructing a highway by building a fence which are all on or in the vicinity of the road to Wabash, their market town and usual place of business, and that without greater or less circuity, when the road is so obstructed, they and each of them have no other means, nor have the public wishing to use the road, of going to and fro, as they have a right to do, for business, comfort and pleasure. 'Our Supreme Court said: 'The question

the case is, can a private person enjoin the obstructing of a public highway without showing a special injury to himself, not common to the public? The rule laid down in Harvard College vs. Stearns, 15 Gray, 1, 'that for an injury common to all, arising from public nuisance, the remedy is by an indictment or public prosecution; but if an individual suffers a peculiar and special damage not common to the public he may have his private action,' is quoted with apof peace, and that prosperity which has proval. In holding that the plaintiffs could not maintain the action on the showing made in their complaint, our Supreme Court further said: 'The fact that the injury of the appellants is greater in degree than that to others does not entitle them to the relief sought; the injury must, be special and pe-It may be to more than one, but must not embrace the entire public."

the act in question prevents competition and precludes all but certain companies from entering into a centract with a city purposes; and that, if such competition were not thus stifled and prevented by the choice. The millennium is not at hand, but | act, the city would be enabled to make a lings for appraisement and appropriation, peace and comfort is to be easily achieved." contract with some company by which the "It may be conceded as true that under contract with some company by which the "It may be conceded as true that under a week before the commu

use of the streets could be granted upon I much more advantageous terms and be made to realize a much larger sum to the city treasury as compensation for such use such competition for a contract could be of the occupying company's rights. had, than it could otherwise realize, then, to that extent, the taxpayers would be relieved from some portion of the burden of taxation; and that plaintiffs, being taxpayers, would not be subjected to so great a burden as they would be if the competition were limited to certain companies, as al-

leged in the complaint.

CONTENTION AS TO COMPETITION. "While there is considerable force in this contention of plaintiffs' counsel, yet, under the authorities already cited, it is doubtful whether plaintiffs' position is so different against the City Council and Board of | from that of the community in general as to give them a standing to maintain this action; but, conceding, without deciding, rallway Company and two weeks ago were | selves and sufficiently different from that successful in securing a temporary restrain- of the community in general to give them such standing, still we are of opinion that the act under consideration is not open to the objections urged against it by the plaintiffs, as we shall endeavor to show hereafter in this opinion.

THE CENSUS RESTRICTION. 'The first section of the act in controversy

" "That it shall and may be lawful for any street-railroad company now or hereafter organized under the laws of the State of Indiana for the purpose of operating a street railroad in any city, the population of which, by the federal census immediately preceding the incorporation of such railroad company, exceeded 100,000 persons, and for such city to enter into a contract, defining the terms upon which such chise within such city, subject to all the

provisions of this act. "The court takes judicial knowledge that no city in the State had a population of 100,000, as disclosed by any federal census prior to that of 1890. It must be conceded, although it has not been argued, that no motion to enter up a final judgment against | company organized prior to the federal Moore, postoffice inspector, and W. E. Lee, them. Had this been done the plaintiffs | census of 1890 could compete for a contract and grant from the city of Indianapolis, for the use of its streets for street-railroad purposes, under the terms of said section. The effect of the language, as will be seen, is that the federal census immediately preceding the incorporation of such company "The allegations in plaintiffs' complaint as to the time of the incorporation of the Citizens' Street-railroad Company, show torneys for the city were instructed to have | that it was organized long before any fed-German, Lajas, Homigueras and Cabo Ro- their answer ready by to-morrow. When the eral census disclosed a population in the answer is filed the case may then be set fore, it is plain that said company is barred city of Indianapolis exceeding 100,000; therein court as a plaintiff, because of being shut out, a very different situation from that under consideration would be presented. "Any other company, however, whose incorporation post-dates the federal census of 1890, would be free, under said section, to enter into a contract with, and obtain a grant from said city for the use of its streets for street-railway purposes, and pany or any other corporation it desires to said Citizens' Company, or some company similarly situated, does not see fit to compiain, we do not see how any one else can

> complain for them.
> "Section 2 of said act provides that the contract and ordinances granting the franthreshold of the case the court found it- | chise shall contain certain limitations and limitations as to fares, paving regulations. the terms and conditions on which the tracks of such company may be used by suburban and interurban roads, how and when the city may become the owner of the property of such company, and operate the road on its own account, if it so desire, etc. SURRENDER OF OLD FRANCHISES.

> > "And said Section 2 contains a further

provision, as follows: \'As a part of any contract entered into pursuant to the provisions of the act, and as a part of the consideration therefor, the company entering into said contract shall first make pancy of the streets, alleys and public places of such city owned, held or claimed is absolutely essential to the decision of the by such company within the corporate limits of such city at the time of the making of such contract pursuant to the provisions of this act, or heretofore owned, held or claimed by such company.' Stress is laid on this provision by plaintiffs' counsel, their contention being that any company is foreclosed from making a contract that does not possess the rights of, the occupying company. We regard this position as untenable. The true construction, we take it, is that if any company has any such rights, then as a condition precedent to entering into a contract with the city fee and salary law was attacked, one of it must surrender such rights, but it is not the grounds of objection being that said law | made a condition precedent to entering into failed to fix salaries for the auditor, treas- a contract that such company shall have urer and recorder of Shelby county. The such rights. It needs but a statement of law did fix salaries for the clerk and sheriff | the two propositions to show the distinc-

such city may acquire by purchase, lease or whole or in part, of any other company opconnecting therewith in territory adjacent thereto, and that said operating company may sell lease or otherwise transfer its property, etc., to such contracting company. "Section 8 of said act provides that: 'No street-railroad company shall hereafter have the right to use or occupy for street-railway purposes the streets, alleys, highways or other public places of any such city, except ideration are of such a character as under and in pursuance of an ordinance or contract specifically stating the period of such use or occupancy. Where such use or occupancy is now or shall hereafter be had by any street-railroad company under any ordinance or ordinances, contracts or agreements, in which is fixed or limited, or atempted to be fixed or limited, the period of time of such occupancy, or in which an extension of time, or ginally so fixed or limited. has been made, and the right and franchises of such use or occupancy shall not, nine or more months prior to the final expiration of tion of determining what is for the best in- the period of time so limited or extended have been granted for a further defi which has acquired the property and franchise of said company, by a contract encontained in the contract, so that, if the | tered into by such city and said company, under the provisions of this act, then, and fendants are about to enter into, may not | in all such cases, upon the final expiration be the most advantageous one obtainable, in | of the time so originally limited or extended, the judgment of the plaintiffs, or even in the | the right to such use or occupancy by said judgment of the court, that alone would af- | company, its successors, or any other company claiming under such ordinance contracts or agreements, shall immediately

terminate and cease forever.'

FREE AND OPEN COMPETITION. "Then, after providing for the removal of the tracks, etc., in case said company does not elect to have them appropriated by its successor as specified, said section contains this proviso: 'Provided, however, that not later than nine months before the expiration street railway constructed or operated of the period of time so originally limited or extended, in the event that no contract for the further use and occupancy of such streets, alleys and public places has been entered into under the provisions of this act between such city and said company, its successors or assigns, such city, through its Board of Public Works, shall open to free competition the further occupancy for a period not exceeding thirty years of the streets, alleys and public places of such city, for the purpose of operating therein an electric or other street railroad, and such city, through its Board of Public Works, shall prescribe in the form of a contract to be entered into by the successful bidder, all conditions and limitations for such use of said streets, alleys and public places as prescribed in Section 2 of this act; and such other conditions as shall best promote the interests of said city and the public, and also a bond or undertaking with sureties to be approved by said Board of Public Works. across the same. The plaintiffs connected conditioned that the bidder, if successful, will enter into the prescribed contract in accordance with the terms and conditions thereof, and of the bid, and in the case of failing, or refusing, or forfeiting, as hereinafter provided, the right to enter into such contract, to pay to such city all damages it may sustain by reason of such failure, refusal or forfeiture; and, as to bidders other than the occupying company, that the bidder, if successful, and in case the occupying company elects not to remove its tracks and other property from the streets, will immediately institute, as hereinafter provided, proceedings to appropriate the property of said company and pay the assessed value of such property to said company or other person entitled thereto as hereinafter provided. In such competition no company now or hereafter organized for such purpose shall be excluded. "The section then provides that if

occupying company is not the successful competitor, and elects not to remove its tracks at the end of its term, the successful company shall institute court proceedings for the appropriation of its property akin to that for railway purposes under the general laws of the State.

PROPERTY IN APPRAISEMENT. "The section further provides that if the occupying company shall possess rights acquired outside of the former corporate limits "It is argued by plaintiff's counsel that of such city from grants from boards of county commissioners, and which by the extension of the corporate limits are now They "earnestly petition the Board of Refor the use of its streets for street-railway | within such city, the same at the election of | gents that no models now in possession of the owner may be embraced in such proceed-

the provisions of the eighth section contract which the city might enter into with a company not at the time possessing any franchise rights to surrender would bethan can be done under the act in discus- come nugatory and void. Unless such consion. It is contended that, to the extent | tracting company should by the period fixed that the city could realize a larger sum, if | in the statute become the owner by purchase "This fact, it is asserted, practically precludes the city from contracting with any

> or one which shall, at the time of entering into the contract, have already acquired the rights of the occupying company. "We have already seen that under the first ection the city may contract with any company organized since the census of 1890. The two sections must be construed together; and if by any reasonable construction both sections can be made to harmonize and stand together, we are required to adopt that construction, rather than one which would

company other than the occupying company

render either section nugatory. CITY'S POWER TO CONTRACT. "Construing the two sections, under the rule as above stated, we think the true intent and meaning to be that the city may contract with any company which, in the judgment of the municipal authorities, offers the most advantageous terms to the city. without regard to whether such company has or has not any franchise to surrender, And that after entering into such contract, such contracting company shall have until the nine (9) months' period named in the statute within which to acquire by purchase or otherwise the franchise rights of the occupying company. But, failing in which, said contract would be unavailing, and the further occupancy of the streets would be open to free competition

"We cannot, however, presume, as a matter of law, that such contracting company would not be able to procure such existing franchise rights from the occupying company or its successors or assigns within the

period named in the statute. "If we are right in this construction, then the plaintiffs or any other combination of individuals have now the right at once to organize a corporation and make proposals to the city for a street-railroad franchise. and if they should be able to satisfy the municipal authorities that their proposition was more advantageous to the city than that proposed by any other company, we have no doubt that they would be awarded the contract. There is nothing in the statute which will preclude the city from awarding it to them, and we cannot presume that the municipal authorities would so disregard and violate their trust as to choose that which was clearly the less advantageous to the city; but, even if they should, in the absence of fraud, the courts would be powerless to prevent it, it being a matter within their judgment and discretion, and on them must rest the responsi-bility. But, for the purposes of this contention, whenever it appears that under the in contracting to one or more particular companies to the exclusion of others, then the objection to its constitutionality is met and fully answered.

OLD COMPANY'S ADVANTAGE.

"It was claimed, as we understand plaintiffs' argument, that in making proposals for a franchise under the statute in question, the Indianapolis Street-railway Company would have an advantage over other companies in bidding, in that it has already acquired the franchise rights of the occupying company, ready to be surrendered upon the granting of a franchise, and thus to be enabled to immediately enter upon its contract rights, while any other company would necessarily be postponed until it could acquire such occupying company's rights, and, failing in that, it would be compelled again

to go into open competition "Conceding that the Indianapolis Company would thus have an advantage over other companies, yet such advantage arises from conditions existing wholly outside of the statute, and not by virtue of any provision therein "The fact that the present occupying com-

pany possesses franchise rights, or that the

Indianapolis Street-railway Company has

purchased the same, cannot be charged to the statute in question. It did not create them, but it only operates upon conditions found to exist. "But even if it be conceded that the statute is so worded as to afford one company an advantage over all others by reason of said company's possessing that which the others have not, we do not think it is such an advantage as would preclude the city from awarding the contract to some one of said other companies. The fact which is alleged in the complaint that the Indianapolis Company has already acquired the franchise rights of the occupying company and is prepared to surrender the same upon the granting of a franchise does not compel the city to grant said company a franchise. Terms may be offered by some other company so much more favorable to the city on matters other than the surrender of existing rights as to overbalance any benefit which might accrue to the city by a present surrender of such existing rights, and as would make it to the interest of the city to accept such other proposal and rely upon acquiring the occupying company's rights

the provisions of the statute. "To illustrate: Suppose that the plaintiffs or some other combination of individuals would organize a corporation to operate street railroads, and should propose to the city to enter into a contract on the basis of straight 3-cent fares, with universal transfers, and in addition should propose to pay into the city treasury in payments the sum of \$1,000,000, and to comply with the other provisions of the statute in regard to bond, paving streets, etc., the city would be at perfect liberty to accept such pro-

by condemnation proceedings later on under

"As we have already said, the city is under no compulsion to accept any company's proposal. It seems to us, under the terms of this statute, that the city is master of the situation and holds the whip handle, so to speak. It has the right, within the limits found in the statute, to fix absolutely the terms on which it will grant a franchise, and if no satisfactory offer shall be made it may hold off and make no contract until the period arrives when the right of occuparcy must be open to free competition.

CITY TO DO AS IT PLEASES. "The supposed benefits which would accrue to the city from a surrender of existing rights, in our judgment, are not so great that they ought to nor does the statute place any compulsion whatever upon the city to grant a franchise to a company which proposes a surrender. The statute makes ample provision for condemnation and appropriation in case of nonsurrender company, except those ends of lines which were acquired by grant from County Commissioners; and provision is made at the option of the owner for including them in the condemnation proceedings. But if the owner should refuse the benefit of such option it might retain such dead ends of lines, but the possession of such property without the right to run into the center of the city over the newly contracting company's lines, and with such dead ends paralleled by the operating company, as it would have a right to do, would be of such small consequence as to be scarcely worthy of consideration 'We therefore conclude that the statute in controversy is not open to the constitu-

tional objection urged against it, and that the temporary injunction should be refused. and it is so ordered."

THE MONUMENT GROUPS. Objections to Criticisms Made by Indianapolis Artists. New Albany Tribune.

We notice in a late issue of the Indianapolis News a communication signed by four Indianapolis artists whose opinions would inspire the highest respect and confidence ! they were criticising paintings. The peace group is their subject and the Tribune gives them full credit for sincerity. But we confess we do not at all agree with them in their criticism of the group. The groups are sculpture and not paintings; and their views therefore must be considered, not as from experts and connoisseurs, but must be estimated as we estimate the opinions of any other intelligent people. The general public judgment among persons of presumed intelligence and good taste stands four square in favor of the merit of the peace and war groups. These gentlemen, Mr. T. C. Steele, Gruelle, Mr. Forsyth and Mr. Otto Stark, have evidently conceived some wrong impressions in matters of fact, which is al we wish to notice here. They claim that the letting of these groups to Mr. Schmitz was in direct violation of law. It would be hard for them to show wherein there was any violation of law in giving the eminent signer of the monument the contract for making the groups. And they say "the contract for making these groups should not have been given to Mr. Schmitz." They say this because these and other Indianapolis artists thought the contract should have been given to Mr. Macmonnies. To have employed him would have required a violation of the law, for he had refused to make a peace group at all, proposing instead an army group and a navy group. But the regents made every effort to secure Macmonnies. They lost nearly a year in correspondence with him and waiting on his conclusions, which came to nothing after all. Had they waited on him the groups would not yet have been begun. They were compelled by force of circumstances which they could not control to drop Macmonnies and seek elsewhere for one competent to do the work There are other errors of fact in their communication, but we care to notice only this, the State be used in completing the mo ment." The regents had rejected the mo now shown and advertised for new designs